

Appl. No. 09/551,408
Amdt. dated March 2, 2010
Reply to Office Action of December 8, 2009

PATENT

Amendments to the Drawings:

Formal replacement drawings are attached for drawing sheets 1-22, including Figures 1-22. These sheets replace original drawing sheets 1-22.

Annotated sheets are also attached showing changes to Figures 6-8, as compared with the original drawings. These changes are reflected in the replacement sheets.

Attachment: 22 Replacement Sheets
 3 Annotated Sheets Showing Changes

REMARKS/ARGUMENTS

Amendments

Before this Amendment, claims 40-43 were pending in the application. No claims are amended, canceled, or added by this paper. Claims 44-56 were previously withdrawn. Therefore, claims 40-43 are present for examination, and claim 40 is the independent claim. No new matter is added by these amendments.

Applicants respectfully request reconsideration of this application in light of the following remarks.

Specification Objections

The Office Action objects to the specification for using the reference character 198 to refer to both a “liquid solution” and “aerosol generator”, and because the term “cup shaped number 200” is allegedly unclear. The paragraph referred to in both objections is amended to consistently use the reference character 194 to refer to the liquid solution, and to replace the term “cup shaped number” with “cup shaped member”. Applicants believe the objections to be overcome, and respectfully request that they be withdrawn.

Drawing Objections

The Office Action makes several objections to the drawings.

First, the Office Action objects generally that the lines, numbers, and letters and lines are not uniformly thick. Formal replacement drawings are submitted herewith for all 22 drawing sheets, and Applicants believe this objection to be overcome.

The formal drawings also should adequately address the objections to reference character 144 in Figure 6 and the character in the lower left portion of Figure 9. In Figure 6, reference character 144 clearly points to the open end of housing 142. In Figure 9, the character on the lower left part of the figure is clearly 146.

Annotated drawing sheets are also attached, showing amendments to Figures 6-8. The reference characters 40, 44, 46, 48, and 56 have been changed to 140, 144, 146, 148, and 156 respectively, in harmony with the specification.

35 U.S.C. §103(a) Ivri, Robertson

The Office Action has rejected claim 40 under 35 U.S.C. §103(a) as being allegedly unpatentable over the cited portions of Ivri et al., WO 97/07896 (“Ivri”) in view of the cited portions of Robertson, et al., U.S. Patent 5,487,378 (“Robertson”). Applicants respectfully traverse.

Claim 40 recites in part *electroforming a vibratable aperture plate made of palladium or a palladium alloy*.

The Office Action admits that Ivri does not teach electroforming the vibratable aperture plate of palladium or a palladium alloy. (Office Action p. 5). The Office Action cites Robertson as teaching “electroforming a metal or metal alloy plate”, and then asserts that it “would have been obvious ... to have modified the method of nebulizing a liquid, as disclosed by Ivri, by electroforming a metal or metal alloy plate, as taught by Robertson, with the dome shape having tapered apertures, as disclosed by Ivri, in order to provide these surfaces with a protective layer to prevent corrosion...” (Office Action p. 5).

Applicants respectfully note that the Office Action does not point to any portion of Robertson that discloses an aperture plate made of palladium or a palladium alloy. In fact, neither Ivri nor Robertson mentions palladium or a palladium alloy.

Thus, Ivri and Robertson, even in combination, do not teach or suggest each and every limitation of claim 40, and the Office Action has not made out a *prima facie* case of obviousness with respect to claim 40. Claim 40 is believed allowable over Ivri and Robertson.

35 U.S.C. §103(a) Ivri, Robertson, Abys

The Office Action has rejected claims 41-43 under 35 U.S.C. §103(a) as being allegedly unpatentable over the cited portions of Ivri in view of the cited portions of Robertson, as applied to claim 40 above, and further in view of Abys et al., U.S. Patent 4,911,798 (“Abys”). Applicants respectfully traverse. Claims 41-43 depend from claim 40 and add further limitations. As is explained above, claim 40 is believed allowable over Ivri and Robertson because Ivri and Robertson do not teach or suggest each and every limitation of claim 40. Abys does not cure the deficiencies of Ivri and Robertson, and claims 41-43 are believed allowable at

least by virtue of their dependence from an allowable base claim. Specifically, neither Ivri, Robertson, nor Abys teaches electroforming from palladium or a palladium alloy.

In support of the rejection of claims 41-43, the Office Action cites Abys as teaching that “palladium metal and alloys are used as protective coatings” and that “palladium-nickel and palladium-cobalt alloys are advantageous used in electroplating....” The Office Action asserts that “it would have been obvious ... to have used palladium-nickel or palladium-cobalt alloys, as taught by Abys, in order to electroform the aperture plate, as taught by Robertson, with a dome shape having tapered apertures therethrough, as disclosed by Ivri, with a **protective layer**, using a well known palladium alloy for its art recognized purposes, which is to **provide a protective layer** using metal alloys....” (Office Action p. 6, emphasis added).

Applicants respectfully note that electroplating is not the same as electroforming, and that Applicants do not use palladium or a palladium alloy to simply form a protective layer. Applicants electroform the entire aperture plate of palladium or a palladium alloy. The combined references, even in combination, do not teach or suggest all of the limitations of claims 41-43, and the Office Action has not provided a rationale to explain why one of skill in the art at the time the invention was made would have chosen to electroform the entire aperture plate from palladium or a palladium alloy, rather than simply using electroplating as is described by Abys. Claims 41-43 are therefore believed allowable over Ivri, Robertson, and Abys.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

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If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

A handwritten signature in black ink that reads "David W. Boyd". The signature is written in a cursive, flowing style.

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